

REMARKS

This Amendment is filed in response to the Final Office Action mailed Oct 23, 2006. The Applicant believed the case is in condition for allowance and respectfully requests favorable action. To the extent that any objections and rejections are still applicable, they are respectfully traversed.

Claims 1-6, 8, 19-24, 26-32, 34, 51-56, 58, 69, and 75-79 are pending in the case.

Claims 1, 5, 6, 8, 23, 26, 31, 32, 34, 51, 70 have been amended address typographical errors and other minor issues. In some instances the dependency of claims has been modified. However, since all such claims still depend from allowed independent claims, such changes are not believed to affect the allowance of the claims.

No Claims have been added.

Request for Interview If Outstanding Issues

The Applicant believes the Application is now in condition for allowance with all objections and rejections addressed. If, however, the Examiner believes there is some issue that would delay a notice of allowance, the Applicant respectfully invites the Examiner to telephonically contact the Applicant's attorney at 617-951-2500, so that the Examiner's concerns may be addressed in an expedited manner.

Claim Objections

At page 1 of the Final Office Action, claims 27-32 were objected to as containing a typographical error. The Applicant has corrected this typographical error and believes the claims are in condition for allowance.

Claim Rejections – 45 U.S.C. §101

At pages 2-3 of the Final Office Action, claims 69, 73, and 79 were rejected under 35 U.S.C. §101, as direct to non-statutory subject matter. Claim 73, which recited Elec-

tromagnetic signals, has been cancelled. Claim 69 has been amended to recite a “tangible computer readable media” and accordingly is believed to be clearly directed to statutory subject matter.

The Applicant respectfully traverses the rejection of claim 79 and urges that the claim meets the requirements of 35 U.S.C. §101. While the Office Action rejects the claim due to the presence of a “a signaling entity, which also is an intangible element,” the test for compliance with 35 U.S.C. §101 is not whether a claim includes some intangible elements, but rather whether the claim as a whole is directed to a claim a “useful process, machine, manufacture, or composition of matter.” See 35 U.S.C. §101. Indeed the USPTO’s “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” published in the Nov. 22, 2005 edition of the Office Gazette specifically addressed this issue. In “ANNEX IV: Computer-Related Nonstatutory Subject Matter” under the heading “(a)” the Guidelines state (emphasis added):

Computer programs are often recited as part of a claim. **USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim.** The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. **Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.**

The Applicant’s claim 79 sets forth (emphasis added):

A network device for reserving resources to transmit messages through a computer network ***comprising:***

a signaling entity configured to detect a situation where a second session between a network sourcing device and a second network receiving device can share the resources reserved for a first session between the network sourcing device and a first network receiving device;

a resource identifier (ID) generator configured to, in response to a situation where the second session can share resources reserved for the

first session, select a same group session ID for the first session and the second session; and

a message generator configured to send a first message to establish the first session, and to send a second message to establish the second session, the message generator including the group session ID in both the first message and the second message.

The Applicant claims a statutory manufacture, to wit, “[a] *network device for reserving resources*.” Several examples of network devices are given in the specification. For example network devices are describe to include bridges, switches, routers and other types of physical devices. *See* page 1, lines 18-22, page 2, lines 8-11. Following the guidance of the “Interim Examination Guidelines,” it is irrelevant whether the claimed network device includes one or more elements that may be computer software. Since a “network device” is a statutory manufacture, the claim as a whole is statutory. Accordingly, the Applicant respectfully requests reconsideration of this rejection.

Should the Examiner believe a telephonic interview would be helpful in the disposition of this Application, the Examiner is encouraged to call the undersigned attorney at (617) 951-2500.

In summary, all the independent claims are believed to be in condition for allowance and therefore all dependent claims that depend there from are believed to be in condition for allowance. The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account
No. 03-1237.

Respectfully submitted,



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